

1 **WAGANAKISING ODAWAK STATUTE**
2 **STALKING PERSONAL PROTECTION ORDERS, VIOLATIONS, AND**
3 **CRIMINAL OFFENSES**
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6 **SECTION I. PURPOSE**
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8 The goal of this Statute is to provide victims of stalking with safety and
9 protection.
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12 **SECTION II. DEFINITIONS**
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14 **A.** “Course of conduct” means a pattern of conduct composed of a series of two (2)
15 or more separate non-continuous acts or an ongoing continuous act.
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17 **B.** “Emotional distress” means significant mental suffering or distress that may, but
18 does not necessarily, require medical or other professional treatment or counseling.
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20 **C.** “Harassment” means conduct directed toward a victim that includes, but is not
21 limited to, repeated or continuing un-consented contact that would cause a reasonable
22 individual to suffer emotional distress and that actually causes the victim to suffer
23 emotional distress.
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25 **D.** “Jurisdiction” means this Tribe and any other Indian Tribe that has asserted
26 jurisdiction pursuant to section 127 of SORNA and the 50 states, the District of
27 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern
28 Mariana Islands, the United States Virgin Islands.
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30 **E.** “Minor” or “Juvenile” means an individual who has not attained the age of 18
31 years.
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1 **F.** “Stalking Personal Protection Order” or “SPPO” means an order issued by Tribal
2 Court or a Court of Competent Jurisdiction for the purpose of stalking. Such orders are
3 not intended for disputes between neighbors.
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5 **G.** “Stalking” means a willful course of conduct involving repeated or continuing
6 harassment of another individual that would cause a reasonable person to feel terrorized,
7 frightened, intimidated, threatened, harassed, or molested and that actually causes the
8 victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
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10 **H.** “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”
11 means “areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as
12 the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article
13 I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.” Little Traverse Bay
14 Bands Constitution, Article V(A)(1)(a).
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16 **I.** “Tribal Court” means the Little Traverse Bay Bands of Odawa Indians Tribal
17 Court.
18

19 **J.** “Tribal Member” means a person who is enrolled Citizen of the Little Traverse
20 Bay Bands of Odawa Indian.
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22 **K.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
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24 **L.** “Un-consented contact” means any contact with another individual that is initiated
25 or continued without that individual's consent or in disregard of that individual's
26 expressed desire that the contact be avoided or discontinued. Un-consented contact
27 includes, but is not limited to, any of the following:
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29 **1.** Following or appearing within the sight of that individual.
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31 **2.** Approaching or confronting that individual in a public place or on private
32 property.
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34 **3.** Appearing at that individual's workplace or residence.

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- 4. Entering onto or remaining on property owned, leased, or occupied by that individual.
- 5. Contacting that individual by telephone.
- 6. Sending mail or electronic communications to that individual.
- 7. Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

M. “Victim” means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

SECTION III. STALKING PROTECTION ORDERS

A. Tribal Court may issue a Stalking Personal Protection Orders include but are not limited to the following:

- 1. Civil Ex Parte
- 2. Civil After Hearing
- 3. Condition of Release or Sentence:
 - a. Pre Adjudication Conditions of Release (Bond)
 - b. Post Adjudication Conditions of Release (Bond)
 - c. Sentencing Orders
 - d. Probation Orders

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2 **B.** Eligible Petitioners: Any person who is or has been a victim of the offense of
3 stalking may file a petition for a Protection Orders against any person who has threatened
4 or has committed an act of stalking or any parent, guardian, or other representative may
5 file a petition on behalf of a child, legally incompetent person, or vulnerable adult.
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7 **C.** The Tribal Court may impose the following within a PPO:
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9 **1.** An order prohibiting the person from threatening to commit or committing
10 acts of harassment against the alleged victim or other family or household
11 member;
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13 **2.** An order prohibiting the person from harassing, annoying, telephoning,
14 contacting, or otherwise communicating with the alleged victim, either directly or
15 indirectly through family, relations by marriage, friends, or co-workers;
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17 **3.** An order directing the person to stay away from the home of the alleged
18 victim and/or child and to stay away from any location where the victim is likely
19 to be including school, place of employment, or a specified place frequented
20 regularly by the petitioner and any named family or household member;
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22 **4.** Inform the person that a violation of these conditions may result in his/her
23 immediate arrest for noncompliance.
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25 **D.** The Court shall:
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27 **1.** Cause the order to be delivered to Tribal Law Enforcement or other
28 appropriate person(s) and/or agency for service and entry into the Law
29 Enforcement Information System (LEIN) system;
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31 **2.** Make reasonable efforts to ensure that the Protection Order is understood
32 by the Petitioner, and the Respondent, if present; and
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1 **3.** Transmit, by the end of the next business day after the order is issued, a
2 copy of the Protection Order to the local law enforcement agency or agencies
3 designated by the Petitioner.
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5 **E.** A Protection Order issued *ex parte* or upon notice and hearing, or a modification
6 of a Protection Orders issued *ex parte* or upon notice and hearing, is effective until
7 further order of the Court. If an *ex parte* order is entered, a hearing shall be scheduled
8 within 14 days to allow the Respondent to respond to the petition. It shall be noted in
9 bold or capital letters on the *ex parte* order:
10

11 **1.** Advising the Respondent that, "If a Protection Order is granted after a
12 hearing, this *ex parte* order shall remain in effect until service is completed."
13

14 **2.** Advising the Respondent that, "If you fail to appear at the hearing
15 regarding the Protection Order, the Court may issue a default judgment granting
16 the relief requested
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18 **F.** The LTBB Law Enforcement shall provide expedited service for Protection
19 Orders.
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22 **SECTION IV. MANDATORY ARREST FOR VIOLATIONS OF ORDERS**
23 **FOR, PROTECTION**
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25 **A.** When a law enforcement officer has probable cause to believe that a respondent
26 has violated a court Protection Orders, the officer shall, without a warrant, arrest the
27 apparent violator.
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29 **B.** The petitioner who is granted a Protection Orders cannot violate or be arrested for
30 violation of her/his own Protection Orders.
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32 **C.** If a law enforcement officer has probable cause to believe that a person has
33 violated a condition of release, or probation, the officer shall, without a warrant, arrest the

1 alleged violator, whether or not the violation was committed in the presence of the
2 officer.

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5 **SECTION V. IMMUNITY**

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7 **A.** Any law enforcement officer shall have immunity from any liability, civil or
8 criminal, in making arrests or exercising any other authority granted under this section
9 when domestic violence or any crimes involving domestic violence have been committed,
10 if the law enforcement officer acts within the scope of his/her authority.

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12 **B.** Law enforcement officers shall have the same immunity with respect to
13 participation in any court proceedings resulting from arrests made for domestic violence
14 or any crimes involving domestic violence.

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17 **SECTION VI. CONFIDENTIALITY OF VICTIM'S ADDRESS:**

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19 **A.** The address of a victim is confidential. Law enforcement, criminal justice
20 personnel, probation and advocates shall not reveal the victim's address

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22 **B.** A petitioner may omit her or his address from all documents filed with the Court.
23 If a petitioner omits her or his address, the Petitioner must provide the Court a mailing
24 address or, in the event the Petitioner is utilizing advocacy services, the name of an
25 advocate that has the knowledge to be able to contact the Petitioner. If disclosure of
26 Petitioner's address is necessary to determine jurisdiction the Court may order the
27 disclosure to be made:

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29 **1.** After receiving the Petitioner's consent;

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31 **2.** Orally and in chambers, out of the presence of the respondent and a sealed
32 record be made; or
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3. After a hearing, if the Court takes into consideration the safety of the
Petitioner and finds such disclosure is in the interest of justice.

**SECTION VII. PETITIONER CANNOT VIOLATE THEIR OWN
PROTECTION ORDER.**

Petitioner cannot be considered by any invitation as having violated, or be subject
to arrest for a violation of their own Protection Order.

SECTION VIII. MUTUAL PROTECTION ORDERS PROHIBITED.

The Court shall not grant mutual Protection Orders.

SECTION IX. TRIBAL REGISTRY FOR PROTECTION ORDERS:

1. To ensure the proper and timely enforcement of all LTBB Tribal
Protection Orders, and any foreign orders falling within its purview and
jurisdiction, the LTBB Tribal Court shall provide for a registry that shall be a
record of all Protection Orders issued by or registered with the LTBB Tribal
Court. The Court Clerk shall provide the law enforcement dispatch centers with
certified copies of Protection Orders within the same day of issuance.

2. The Court shall coordinate with, and ensure that any LTBB Tribal
Protection Orders are submitted to any other registries, whether federal, state,
Tribal, or local, for the purpose of enhancing full faith and credit enforcement of
all Protection Orders, including provisions to enter the Protection Orders in the
National Crime Information Center (NCIC) database.

3. The Court Clerk shall also immediately provide the dispatch centers and

1 designated registry with certified copies and information concerning any
2 modifications, revocations, withdrawals, and/or expired, Protection Orders.

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4 **4.** The Court shall provide that information contained in the registry shall be
5 available on a 24-hour basis to any court, law enforcement agency, or domestic
6 violence program.

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9 **SECTION X. VIOLATION OF SPPO SANCTIONS**

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11 A SPPO is a court order, so any violation proven beyond a reasonable doubt is
12 criminal "contempt of court". The Judge can send the violating respondent to jail for up
13 to 60 days for each violation, and/or impose a fine of \$500.00.

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16 **SECTION XI. STALKING PENALTIES:**

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18 **A.** An individual who engages in stalking is guilty of a crime as follows:

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20 **1.** A person found guilty of stalking shall be subject to a penalty of not more
21 than sixty (60) days in jail, a fine not to exceed \$500, or both fine and
22 imprisonment.

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24 **2.** A person guilty of a second or subsequent offense, within five (5) years of
25 the first offense, shall be subject to a penalty of not less than ninety (90) days in
26 jail, a fine not to exceed \$500, or both fine and imprisonment.

27
28 **B.** If the victim is a juvenile at any time during the individual's course of conduct and
29 the individual is five (5) or more years older than the victim, shall be subject to a penalty
30 of not less than ninety (90) days in jail, a fine not to exceed \$500, or both fine and
31 imprisonment.

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33 **C.** A criminal penalty provided for under this section may be imposed in addition to

1 any penalty that may be imposed for any other criminal offense arising from the same
2 conduct or for any contempt of court arising from the same conduct.
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5 **SECTION XII. SEVERABILITY CLAUSE**
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7 If any clause, section or part of this Statute is declared invalid by the Tribal Court,
8 such shall not render invalid the remainder thereof, but shall be confined in its operation
9 to the offending section.
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12 **SECTION XIII. EFFECTIVE DATE**
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14 Effective upon the signature of the Executive, or 30 days from submission to the
15 Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council
16 override of the veto.
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18 **CERTIFICATION**
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